

GREENE CONSUMER LAW

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June 4, 2025

Hon. Katherine Polk Failla
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: *Morris et al. v. Kenneth Dean Sugarman et al.*
Case No. 23 Civ. 9327 (KPF)

Dear Judge Polk Failla:

I am co-counsel for the plaintiffs, Kimberly Morris, Alger Jason Ryan Morris, James Baker and Edith Baker. In light of the New York Court of Appeals decision, *Hobish v. AXA Equitable Life Ins. Co.*, 2025 N.Y. LEXIS 38, 2025, *15-22, NY Slip Op 00183 (N.Y. Jan. 14, 2025), plaintiffs concede that their claims on behalf of the putative classes are unable to meet the \$5 million jurisdictional threshold of the Class Action Fairness Act, 28 U.S.C. § 1332(d). Accordingly, plaintiffs do not object to the Court granting Defendant's Rule 12(b)(1) Motion [Doc. 83] and dismissing their class claims, leaving their individual claims still be to adjudicated.

Counsel for the parties have conferred. The parties request 60 additional days to complete discovery. Defendant wishes to take the Plaintiffs' depositions; Plaintiffs wish to re-depose Mr. Sugarman to question him on merits-related issues. (When Plaintiffs previously deposed Mr. Sugarman, they were limited, per the Court's December 3, 2024 order [Doc. 67], to "class jurisdictional issues.")

Respectfully submitted,



Francis R. Greene

With Plaintiffs' consent, the Court hereby GRANTS Defendant's motion to dismiss Plaintiffs' class claims pursuant to Federal Rule of Civil Procedure 12(b)(1). The Clerk of Court is directed to terminate the pending motion at docket entry 83.

As this leaves Plaintiffs' individual claims in the Third Amended Complaint, the Court hereby GRANTS the parties' request to reopen fact discovery for an additional 60 days so that Defendant may depose Plaintiffs, and Plaintiffs may depose Mr. Sugarman, about these individual claims. Fact discovery shall be completed on or before **August 4, 2025**. The Court will not grant an extension of this deadline absent compelling circumstances. The Clerk of Court is directed to terminate the pending motion at docket entry 84.

Dated: June 5, 2025
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE